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[6450-01-P]

**DEPARTMENT OF ENERGY**

**10 CFR Parts 430 and 431**

**[EERE-2017-BT-STD-0062]**

**RIN 1904-AD38**

**Energy Conservation Program: Procedures, Interpretations, and Policies for Consideration of New or Revised Energy Conservation Standards for Consumer Products**

**AGENCY:** Office of Energy Efficiency and Renewable Energy, Department of Energy.

**ACTION:** Notice of data availability.

**SUMMARY:** The U.S. Department of Energy (DOE) is announcing this notice of data availability (“NODA”) regarding national energy savings estimates in past DOE energy conservation standards rulemakings. These data will help inform DOE’s decision-making process as it considers whether to establish a significant energy savings threshold for setting energy conservation standards for consumer products and commercial and industrial equipment. DOE is seeking comment on these data.

**DATES:** Written comments and information are requested and will be accepted on or before  
[INSERT DATE 14 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

**ADDRESSES:** Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at <http://www.regulations.gov>. Follow the instructions for submitting comments. Alternatively, interested persons may submit comments, identified by docket number EERE-2017-BT-STD-0062, by any of the following methods:

1. *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
2. *E-mail:* to [Process.Rule@ee.doe.gov](mailto:Process.Rule@ee.doe.gov). Include EERE-2017-BT-STD-0062 in the subject line of the message.
3. *Postal Mail:* Ms. Sofie Miller, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW, Room 6A-013, Washington, DC, 20585. If possible, please submit all items on a compact disc (CD), in which case it is not necessary to include printed copies.
4. *Hand Delivery/Courier:* Ms. Sofie Miller, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW, Washington, DC 20585. Telephone: (202) 586-5000. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

No telefacsimilies (faxes) will be accepted. For detailed instructions on submitting comments and additional information on the rulemaking process, see section III of this document.

*Docket:* The docket for this activity, which includes *Federal Register* notices, comments, and other supporting documents/materials, is available for review at <http://www.regulations.gov>. All documents in the docket are listed in the <http://www.regulations.gov> index. However, some documents listed in the index, such as those containing information that is exempt from public disclosure, may not be publicly available.

The docket webpage can be found at <https://www.regulations.gov/docket?D=EERE-2017-BT-STD-0062>. The docket webpage contains instructions on how to access all documents, including public comments, in the docket. See section III (Submission of Comments) for information on how to submit comments through <http://www.regulations.gov>.

#### **FOR FURTHER INFORMATION CONTACT:**

Ms. Sofie Miller, Senior Advisor, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, 1000 Independence Avenue, SW., Washington, DC, 20585. Telephone: (202) 586-5000. E-mail: [Process.Rule@ee.doe.gov](mailto:Process.Rule@ee.doe.gov).

Ms. Francine Pinto, U.S. Department of Energy, Office of the General Counsel, GC-33, 1000 Independence Avenue, SW., Washington, DC 20585-0121. Telephone: (202) 586-7432. E-mail: [Francine.Pinto@hq.doe.gov](mailto:Francine.Pinto@hq.doe.gov).

## **SUPPLEMENTARY INFORMATION:**

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### **I. Introduction**

DOE generally uses the procedures set forth in 10 CFR part 430, subpart C, appendix A, *Procedures, Interpretations, and Policies for Consideration of New or Revised Energy Conservation Standards for Consumer Products* (“Process Rule”) when prescribing energy conservation standards for both consumer products and commercial/industrial equipment pursuant to the Energy Policy and Conservation Act of 1975 (Pub. L. 94-163, codified at 42 U.S.C. 6291, *et seq.*) (“EPCA”). On February 13, 2019, DOE published a notice of proposed rulemaking (“NOPR”) to update and modernize the Process Rule (“Process Rule NOPR”). 84 FR 3910. As part of the update, DOE is proposing to define an energy savings threshold to satisfy the requirement in EPCA that a new or amended energy conservation standard must result in a significant conservation of energy. (See 42 U.S.C. 6295(o)(3)(B)) Specifically, DOE is proposing to apply a threshold of 0.5 quad in energy savings or a 10% reduction in energy consumption over a 30-year analysis period to satisfy this requirement.

In proposing these thresholds, DOE took into consideration national energy savings estimates from past energy conservation standards rulemakings. 84 FR 3910, 3923 (Feb. 13,

2019). As a result of comments provided at two public meetings<sup>1</sup> DOE held on the proposal, DOE has subsequently determined that the national energy savings data from the 57 energy conservation standards rulemakings mentioned in the NOPR are a mixture of source and full-fuel-cycle energy savings. Since publication of the Process Rule NOPR, DOE has re-examined its use of source and full-fuel-cycle energy savings data in proposing a threshold for significant conservation of energy in order to provide a consistent accounting across rulemakings. Because EPCA uses a household energy consumption metric as a threshold for setting standards for new covered products (42 U.S.C. 6295(l)(1)), DOE believes that site energy would be the most appropriate metric for evaluating energy savings across rulemakings. As a result, DOE is providing national site energy savings data from its past rulemakings for public comment as it will help inform DOE's decision regarding whether (and how) to define a threshold for significant energy savings.

DOE notes that the rules reported and the data analyzed in the information provided with this NODA are identical to those provided with DOE's original proposal and discussed at the public meeting. However, DOE has now restated the results of each rulemaking on a site energy basis for the purpose of making an "apples-to-apples" comparison of the results of each rulemaking using the statutorily-required measure for setting energy conservation standards. DOE is not at this time making any determination regarding whether the use of full-fuel-cycle energy measures are an appropriate measure of the benefits of any prior rulemaking.

## **II. Site National Energy Savings from Prior DOE Rulemakings**

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<sup>1</sup> DOE convened public meetings to discuss the Process Rule NOPR on March 21, 2019 and April 11, 2019.

As discussed in the Process Rule NOPR, DOE focused its analysis of national energy savings on energy conservation standards rulemakings conducted starting after the U.S. Court of Appeals for the District of Columbia Circuit's decision in *Natural Resources Defense Council v. Herrington*, 768 F.2d 1355 (D.C. Cir. 1985) through a final rule establishing energy conservation standards for walk-in coolers and freezers on July 10, 2017. 84 FR 3910, 3923 (Feb. 13, 2019). After excluding instances where DOE set no-standard standards or adopted standard levels from the American National Standards Institute ("ANSI")/American Society of Heating, Refrigerating, and Air-Conditioning Engineers ("ASHRAE")/Illuminating Engineering Society of North America ("IESNA") Standard 90.1 ("ASHRAE Standard 90.1"), DOE set standards for covered products and equipment a total of 57 times. These 57 rules are listed in a document available in the docket at <https://www.regulations.gov/document?D=EERE-2017-BT-STD-0062-0144>.

The document lists, among others things, the analysis period for each rule, the national site energy savings over the analysis period (converted as necessary from source energy savings estimates<sup>2</sup>), and the corresponding percentage reduction in energy use over the analysis period. In total, the 57 rules resulted in national site energy savings of 54.64 quads.<sup>3</sup> The average national site energy savings for these rules is 0.959 quad, while the median is 0.32 quad. The average percent reduction in national site energy use for these rules is 13.1%, while the median is

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<sup>2</sup> For rules prior to 2001, the national site energy savings were not reported. For these rules, the national site energy savings are estimated using a single average national site-to-source energy savings multiplier of 2.78 for electricity, 1.09 for gas, or an average of the two for rules with mixed fuels. For all other rules, the national site energy savings are available in the technical support documents and/or the analytical tools.

<sup>3</sup> Six of the rules listed in the table identify a range of energy savings. For the purposes of this NODA, DOE assumes the maximum value for the energy savings in each of these six rules.

8.0%. Table II.1 contains the results of applying a variety of significant energy savings thresholds to these 57 rules.

**Table II.1 Application of Various Significant Energy Savings Thresholds**

<b>Significant Energy Savings Threshold</b>	<b>No Additional Percentage Threshold</b>	<b>10% Reduction in Energy Use Over Analysis Period</b>	<b>7.5% Reduction in Energy Use Over Analysis Period</b>	<b>5% Reduction in Energy Use Over Analysis Period</b>
1.00 Quad	21 of 57 rules meet this threshold for significance.  These 21 rules account for 83.77% of the total energy savings from the 57 rules.	32 of 57 rules meet this threshold for significance.  These 32 rules account for 90.71% of the total energy savings from the 57 rules.	35 of 57 rules meet this threshold for significance.  These 35 rules account for 91.47% of the total energy savings from the 57 rules.	41 of 57 rules meet this threshold for significance.  These 41 rules account for 94.77% of the total energy savings from the 57 rules.
0.75 Quad	24 of 57 rules meet this threshold for significance.  These 24 rules account for 88.55% of the total energy savings from the 57 rules.	34 of 57 rules meet this threshold for significance.  These 34 rules account for 93.87% of the total energy savings from the 57 rules.	37 of 57 rules meet this threshold for significance.  These 37 rules account for 94.64% of the total energy savings from the 57 rules.	42 of 57 rules meet this threshold for significance.  These 42 rules account for 96.29% of the total energy savings from the 57 rules.
0.50 Quad	26 of 57 rules meet this threshold for significance.  These 26 rules account for 90.89% of the total energy savings from the 57 rules.	34 of 57 rules meet this threshold for significance.  These 34 rules account for 93.87% of the total energy savings from the 57 rules.	37 of 57 rules meet this threshold for significance.  These 37 rules account for 94.64% of the total energy savings from the 57 rules.	42 of 57 rules meet this threshold for significance.  These 42 rules account for 96.29% of the total energy savings from the 57 rules.
0.40 Quad	27 of 57 rules meet this threshold for significance.  These 27 rules account for 91.71% of the total energy savings from the 57 rules.	34 of 57 rules meet this threshold for significance.  These 34 rules account for 93.87% of the total energy savings from the 57 rules.	37 of 57 rules meet this threshold for significance.  These 37 rules account for 94.64% of the total energy savings from the 57 rules.	42 of 57 rules meet this threshold for significance.  These 42 rules account for 96.29% of the total energy savings from the 57 rules.
0.30 Quad	31 of 57 rules meet this threshold for significance.	36 of 57 rules meet this threshold for significance.	39 of 57 rules meet this threshold for significance.	43 of 57 rules meet this threshold for significance.



	These 31 rules account for 94.09% of the total energy savings from the 57 rules.	These 36 rules account for 95.01% of the total energy savings from the 57 rules.	These 39 rules account for 95.77% of the total energy savings from the 57 rules.	These 43 rules account for 96.84% of the total energy savings from the 57 rules.
0.25 Quad	34 of 57 rules meet this threshold for significance.  These 34 rules account for 95.61% of the total energy savings from the 57 rules.	38 of 57 rules meet this threshold for significance.  These 38 rules account for 96.07% of the total energy savings from the 57 rules.	40 of 57 rules meet this threshold for significance.  These 40 rules account for 96.30% of the total energy savings from the 57 rules.	43 of 57 rules meet this threshold for significance.  These 43 rules account for 96.84% of the total energy savings from the 57 rules.
0.20 Quad	37 of 57 rules meet this threshold for significance.  These 37 rules account for 96.78% of the total energy savings from the 57 rules.	41 of 57 rules meet this threshold for significance.  These 41 rules account for 97.24% of the total energy savings from the 57 rules.	43 of 57 rules meet this threshold for significance.  These 43 rules account for 97.48% of the total energy savings from the 57 rules.	46 of 57 rules meet this threshold for significance.  These 46 rules account for 98.01% of the total energy savings from the 57 rules.
0.10 Quad	45 of 57 rules meet this threshold for significance.  These 45 rules account for 98.93% of the total energy savings from the 57 rules.	49 of 57 rules meet this threshold for significance.  These 49 rules account for 99.39% of the total energy savings from the 57 rules.	51 of 57 rules meet this threshold for significance.  These 51 rules account for 99.62% of the total energy savings from the 57 rules.	52 of 57 rules meet this threshold for significance.  These 52 rules account for 99.70% of the total energy savings from the 57 rules.

DOE seeks comment on the data presented in the docket and in Table II.1.

### III. Submission of Comments

DOE invites all interested parties to submit in writing by the date listed in the **DATES** section at the beginning of this document, comments and information on matters addressed in this notice and on other matters relevant to DOE's consideration of the data related to this

NODA. These comments and information will aid in DOE's decision with respect to its consideration of potentially setting a threshold for significant energy savings.

Submitting comments via <http://www.regulations.gov>. The <http://www.regulations.gov> webpage will require you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. Persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to <http://www.regulations.gov> information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information ("CBI")). Comments submitted through <http://www.regulations.gov> cannot be claimed as CBI. Comments received through the website will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section.

DOE processes submissions made through <http://www.regulations.gov> before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that <http://www.regulations.gov> provides after you have successfully uploaded your comment.

Submitting comments via email, hand delivery/courier, or postal mail. Comments and documents submitted via email, hand delivery/courier, or postal mail also will be posted to <http://www.regulations.gov>. If you do not want your personal contact information to be publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your contact information on a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. If you submit via postal mail or hand delivery/courier, please provide all items on a CD, if feasible, in which case it is not necessary to submit printed copies. No telefacsimiles (faxes) will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, written in English, and free of any defects or viruses. Documents should not contain special characters or any form of encryption, and, if possible, they should carry the electronic signature of the author.

Campaign form letters. Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This reduces comment processing and posting time.

Confidential Business Information. Pursuant to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email, postal mail, or hand delivery two well-marked copies: one copy of the document marked "confidential" including all the information believed to be confidential, and one copy of the document marked "non-confidential" with the information believed to be confidential deleted. Submit these documents via email or on a CD, if feasible. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

Factors of interest to DOE when evaluating requests to treat submitted information as confidential include (1) a description of the items, (2) whether and why such items are customarily treated as confidential within the industry, (3) whether the information is generally known by or available from other sources, (4) whether the information has previously been made available to others without obligation concerning its confidentiality, (5) an explanation of the competitive injury to the submitting person which would result from public disclosure, (6) when such information might lose its confidential character due to the passage of time, and (7) why disclosure of the information would be contrary to the public interest.

It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

DOE considers public participation to be a very important part of the process for developing test procedures and energy conservation standards. DOE actively encourages the participation and interaction of the public during the comment period in each stage of the rulemaking process. Interactions with and between members of the public provide a balanced discussion of the issues and assist DOE in the rulemaking process. Anyone who wishes to be added to the DOE mailing list to receive future notices and information about this process should contact Appliance and Equipment Standards Program staff at (202) 287-1445 or via e-mail at *Process.Rule@ee.doe.gov*.

Signed in Washington, D.C., on JUL 22 2019

A handwritten signature in dark ink, appearing to read 'D. Simmons', is written over a horizontal line.

Daniel R Simmons  
Assistant Secretary  
Energy Efficiency and Renewable Energy